

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUMMONS FOR JUDGMENT NO.111 OF 2003
IN
SUMMARY SUIT NO.1001 OF 2000

M/s Amit Enterprises .. Plaintiff
versus
P.C.I.Chemicals & Pharmaceuticals & anr..Defendants
...

Mr.T.Almeida for Plaintiff.

Mr.H.S.Khokhawala i/b Nankani & Co for Defendants

CORAM : D.G. KARNIK, J

DATED : 19th January 2005.

P.C:-

1. Heard learned counsel for the plaintiff and the defendants. The plaintiff has filed this suit for recovery of the value of the goods supplied. At the stage of hearing of the Summons for Judgment the only defence that was canvassed before me by the learned counsel for the defendants was of total denial. He

pleaded that no orders were placed for the supply and the goods were not supplied by the plaintiff at all. The defence is of total denial. Learned counsel for the defendants has placed on record the documents along with a list. The documents are taken on record and marked X for identification. Apart from the office copies of the invoices, delivery challans, purportedly signed by the receiver, they also contain 3 'C' forms dated 8th September, 1998 issued by the defendants to the plaintiff. The said 'C' forms were issued by the defendants to the plaintiff for the purpose of claiming relief under the Sales Tax Act on sales tax payable for sale of goods. If there was no contract and there were no supplies there was no occasion for the defendants to supply 'C' forms to the plaintiff. When the hearing was last held on 12th January, 2005 inspection of the original 'C' forms was given to the defendant in the court itself and the matter was adjourned to today to enable the plaintiff to produce the original 'C' forms and to enable the defendants to file additional affidavit in reply if any. No additional affidavit in reply has been filed denying the issuance of 'C' forms. In the circumstances, the defence raised by the defendants is false and also prima facie unbelievable. In the

circumstances, I am inclined to grant only a conditional leave to the defendants.

2. Accordingly the defendants are granted conditional leave to defend the suit subject to their depositing in court the principal amount of Rs.11,84,593.58 within four weeks. On such deposit being made, the suit shall stand transferred to the list of commercial causes. On failure to deposit, the plaintiff will be entitled to apply.

D.G.KARNIK, J